



**BILLING CODE 3290-F5**

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

**Docket No. USTR–2015–0016**

**2015 Special 301 Out-of-Cycle Review of Notorious Markets: Request for Public Comments**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of Request for Public Comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) requests written comments from the public identifying Internet and physical markets based outside the United States that should be included in the 2015 Notorious Markets List. In 2010, USTR began publishing the Notorious Markets List separately from the annual Special 301 Report as an “Out-of-Cycle Review.” The Notorious Markets List (List) identifies online and physical marketplaces that reportedly engage in and facilitate substantial copyright piracy and trademark counterfeiting.

**DATES:** The deadline for interested parties to submit written comments is 11:59 PM (EDT) on October 5, 2015. Interested parties who wish to provide rebuttal or other information to be considered during the review may do so through this docket until 11:59 PM (EDT) on October 12, 2015.

**ADDRESSES:** All written comments should be filed electronically via [www.regulations.gov](http://www.regulations.gov), Docket Number USTR–2015–0016, and be consistent with the requirements set forth below. When filing a submission, please include the phrase “2015 Out-of-Cycle Review of Notorious Markets” in the “Type Comment” field.

**FOR FURTHER INFORMATION CONTACT:**

Christine Peterson, Director for Intellectual Property and Innovation, Office of the United States Trade Representative, at [Special301@ustr.eop.gov](mailto:Special301@ustr.eop.gov). Information on the Special 301 Review, including the Notorious Markets List, is available at [www.ustr.gov](http://www.ustr.gov).

**SUPPLEMENTARY INFORMATION:**

**1. Background**

The United States is concerned with trademark counterfeiting and copyright piracy on a commercial scale because they cause significant financial losses for rights holders, legitimate businesses, and governments, undermine critical U.S. comparative advantages in innovation and creativity to the detriment of American workers, and potentially pose significant risks to consumer health and safety as well as privacy and security. The List identifies select online and physical marketplaces that reportedly engage in or facilitate substantial copyright piracy and trademark counterfeiting.

Beginning in 2006, USTR identified notorious markets in the annual Special 301 Report. In 2010, pursuant to the Administration’s 2010 Joint Strategic Plan on Intellectual Property Enforcement, USTR announced that it would begin publishing the List as an Out-of-Cycle Review, separately from the annual Special 301 Report. USTR published the first such List in February 2011. USTR develops the annual List based upon public comments solicited through

the *Federal Register* and in consultation with other Federal agencies that serve on the Special 301 Subcommittee of the Trade Policy Staff Committee.

The United States encourages owners and operators of markets reportedly involved in piracy and counterfeiting to adopt business models that rely on the licensed distribution of legitimate content and products and to work with rights holders and enforcement officials to address infringement. We also encourage responsible government authorities to intensify their efforts to investigate reports of piracy and counterfeiting in such markets, and to pursue appropriate enforcement actions.

The List does not purport to reflect findings of legal violations, nor does it reflect the United States Government's analysis of the general intellectual property rights (IPR) protection and enforcement climate in the country or countries concerned. For an analysis of the IPR climate in particular countries, please refer to the annual Special 301 Report, published each spring no later than 30 days after USTR submits the National Trade Estimate to Congress.

## **2. Public Comments**

### *a. Written Comments*

USTR invites written comments from the public concerning examples of Internet and physical notorious markets, including foreign trade zones that allegedly facilitate substantial trademark counterfeiting and copyright piracy. Commenters are requested to support their nominations with the information listed in Section 2.b.

### *b. Requirements for Comments*

To receive full consideration, written comments should be as detailed as possible. Comments must clearly identify the market and the reason or reasons why the commenter considers that the market should be included in the Notorious Markets List.

Commenters are strongly encouraged to include the following information, as applicable:

- if a physical market, the market's name and location, e.g., common name, street address, neighborhood, shopping district, city, etc., and the identity of the principal owners/operators;
- if an online market, the domain name(s) past and present, available registration information, and name(s) and location(s) of the hosting provider(s);
- whether the physical or online market is owned, operated, or otherwise affiliated with a government entity;
- types of counterfeit or pirated products or services sold, traded, distributed, or otherwise made available in or at that market;
- volume of transactions in counterfeit or pirated goods or services or other indicia of a market's scope, scale, or reach or relative significance in a given geographic area or with respect to a category of goods or services; if an online market, information on the volume and type of Internet traffic associated with the website, including number of visitors, number of page views, average time spent on the site by visitors, estimate of the number of infringing items sold or traded and number of files streamed, shared, seeded, leeches, downloaded, uploaded, or otherwise distributed or reproduced, and global or country popularity rating (e.g., Alexa rank);

- if an online market, revenue sources such as sales, subscriptions, donations, upload incentives or advertising and the methods by which that revenue is collected;
- estimates of economic harm to the rights holder resulting from the piracy or counterfeiting and a description of the methodology used to calculate the harm;
- whether the goods or services sold, traded, distributed, or made available pose a risk to public health or safety;
- any known contractual, civil, administrative, or criminal enforcement activity against the market and the effectiveness of that enforcement activity;
- additional actions taken by the market owners or operators to remove, limit or discourage the availability of counterfeit or pirated goods or services, including removing or disabling access to such goods or services, issuing and enforcing guidelines prohibiting the posting of such goods or services, or cooperating in enforcement efforts; and
- any additional information relevant to the review.

*c. Instructions for Submitting Comments*

Comments must be in English. To ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to submit comments electronically, using the [www.regulations.gov](http://www.regulations.gov) website. To submit comments via [www.regulations.gov](http://www.regulations.gov), enter Docket Number USTR–2015–0016 on the home page and click “Search.” The site will provide a search-results page listing all documents associated with this docket. Find the reference to this notice and click on the link entitled “Comment Now!.” For further information on using the

[www.regulations.gov](http://www.regulations.gov) website, please consult the resources provided on the site by clicking on “How to use Regulations.gov” at the bottom of the home page under “Help.”

The [www.regulations.gov](http://www.regulations.gov) website allows users to provide comments by filling in a “Type Comment” field, or by attaching a document using an “Upload File” field. USTR prefers that comments be provided in an attached document. If a document is attached, please type “2015 Out-of-Cycle Review of Notorious Markets” in the “Type Comment” field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf) format. If the submission is in another file format, please indicate the name of the software application in the “Type Comment” field. File names should reflect the name of the person or entity submitting the comments. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. In the document, confidential business information must clearly be designated as such; the submission must be marked “BUSINESS CONFIDENTIAL” on the cover page and each succeeding page, and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. Additionally, the submitter should type “Business Confidential 2015 Out-of-Cycle Review of Notorious Markets” in the “Type Comment” field. Anyone submitting a comment containing business confidential information must also submit, as a separate submission, a non-business confidential version of the submission, indicating where

the business confidential information has been redacted. The file names of both documents should reflect their status – “BC” for the business confidential version and “P” for the public version. The non-business confidential version will be placed in the docket at [www.regulations.gov](http://www.regulations.gov) and be available for public inspection.

As noted, USTR strongly urges commenters to submit comments through [www.regulations.gov](http://www.regulations.gov). Any alternative arrangements must be made in advance of transmitting a comment and in advance of the relevant deadline by contacting USTR at [Special301@ustr.eop.gov](mailto:Special301@ustr.eop.gov).

### **3. Inspection of Comments**

Comments received will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except business confidential information exempt from public inspection in accordance with 15 CFR 2006.15. Comments may be viewed free of charge by visiting [www.regulations.gov](http://www.regulations.gov) and entering Docket Number USTR–2015–0016 in the “Search” field on the home page.

**Probir Mehta,**

*Acting Assistant United States Trade Representative (AUSTR) for Intellectual Property and Innovation*

*Office of the United States Trade Representative*

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